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OFFICE OF PETITIONS

In re Application of
Simon Blair Dobson
Application No. 10/020,869
Filed: 18 December, 2001
Atty Dkt No. 60130-1294/00MRA0564

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:
: DECISION DISMISSING
: PETITION
:

This is a decision on the petition under 37 CFR 1.10(c) filed on 22 January, 2002 (certificate of mailing date 3 January, 2002), requesting that the above-identified application be accorded a filing date of 12 December, 2001, rather than the presently accorded filing date of 18 December, 2001.

The petition is dismissed.

Petitioner alleges that the application was deposited in Express Mail service on 12 September, 2001. In support, petitioner has included a copy of a tracking report printed from the USPS Internet Track & Confirm and database which shows that a mailing bearing Express Mail Label No. EL747232810US (the same Express Mail number found on the itemized transmittal sheet accompanying the original application papers located in the official file) was "Enroute" on 12 September, 2001.

Paragraph (c) of 37 CFR 1.10 states that:

Any person filing correspondence under 37 CFR 1.10 that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other USPS notation, may

petition the Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;

(2) The number of the "Express Mail" mailing label was placed on the papers or fees that constitute the correspondence prior to the original mailing by "Express Mail;" and

(3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

The instant petition lacks the showing required by item (3). In regards to item (3), petitioner must provide a true copy of the Express Mail mailing label showing the "date-in" with a renewed petition. If petitioners are unable to provide a true copy of the Express Mail label showing the "date-in", petitioner should submit a detailed explanation of the circumstances thereof.

As petitioner has not provided a true copy of the Express Mail label, the petition is dismissed without prejudice for reconsideration pending submission of a true copy of the Express Mail label.

The application will be retained in the Office of Petitions for TWO (2) MONTHS to await petitioner's response to this decision. If no response is forthcoming within TWO (2) MONTHS, the application will be forwarded to the Office of Initial Patent Examination for further processing with the presently accorded filing date of 18 December, 2001.

Telephone inquiries may be directed to the undersigned at 703-308-6918.



Douglas I. Wood
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Office of the Deputy Commissioner
for Patent Examination Policy